



Testimony to the Senate Energy and Technology Committee

David Vehslage

November 5, 2013

Amendments to the Michigan Telecommunications Act – SB 636

Thank you, Mr. Chairman and members of the Committee. I am Dave Vehslage, State Director of Government Affairs for Verizon.

I appreciate the opportunity to provide our thoughts on SB 636 and also appreciate the drafts of the legislation that have been provided and the opportunity to comment along the way.

While I will dispense with a full description of Verizon in Michigan, I do want to provide the following info to the Committee:

- Verizon Wireless has invested \$1.8 billion in our Michigan network since 2000.
- Completed our deployment of 4G LTE this summer
- Our network engineers are now busy providing additional capacity to handle the growing amounts of data and video that our customers will demand in the next several years.
- Expanding our network with small antenna sites and in-building antennas.
- Partnered with Thumb Cellular so they could provide 4G LTE in the Thumb .
- Over 90% of Verizon Wireless' cell tower sites are now equipped with backup emergency generators so customer phones will continue to work in the event of a storm or emergency.
- We view ourselves as a Michigan provider, not a rural or urban provider.

Today, I will focus my attention on Section 304 of the MTA. The bill before you proposes to make various changes to the Access Restructuring Mechanism (ARM) or "fund," which was created in 2009. The fund requires wireless carriers' customers to subsidize the operations of rural wireline carriers. The 2009 legislation required reevaluation of the fund in 2014 and again in 2018 to ensure that rural carriers would not receive excessive subsidies. However, the changes proposed by SB 636 would prevent a much-needed resizing of the fund in 2014 and could provide a windfall to rural companies that are now also receiving federal subsidies from various federal access recovery mechanisms.

**Wireless Providers & Customers Pay \$10 Million Annually and Eventually Well Over \$100 M into the Fund**

As the Michigan Public Service Commission (MPSC) noted in its required annual report to the Legislature on the Michigan ARM, 64% of the contributions to the fund come from wireless providers. Those wireless providers, including Verizon, pass the fund assessment through to their customers in the form of a separate fee on their monthly wireless bills. In simple math, wireless providers and/or customers are currently paying approximately \$10 million annually into this fund, which is then disbursed to the state's rural wireline carriers -- the "Eligible Carriers" referenced in the statute. The rural wireline carriers are now urging the Legislature to not revisit these subsidies on the schedule established and agreed to by all players in the telecommunications industry in 2009.

**What Has Been Missing in the Current Fund Debate So Far? A Full Explanation**

While we hear stories and anecdotal tales of harm that may befall Eligible Providers as the reason the law needs to be changed, to date there has not been a full description of how or why this is. The approach appears to be one of "Trust Us" that there is no need to review the data and determine whether the fund is excessive, and instead delay a recalculation of the Fund for another 4 years. Verizon believes that a change that dramatic to the original legislation requires more proof than the Eligible Providers have offered to date. If there is indeed a problem resulting from federal reform of interstate access rates, the current statute gives the MPSC the power to act (by initiating a proceeding on its own, as it did in Case No. U-16943, or on an application filed by any carrier) and to adjust the ARM Fund in an appropriate and confidential manner employing actual data from the Eligible Carriers.

Ironically, Paragraphs 790 and 795 of the FCC's November 2011 reform order (FCC 11-161) purposefully established a uniform, national framework that would take a potentially large financial burden away from the states, so they would not be required to bear the burden of establishing and funding state recovery mechanisms for intrastate access reductions. Looking back with 20/20 hindsight, Michigan may have been able to save a lot of time, effort and ratepayer dollars by not establishing the state ARM Fund in the first place.

### **Suggested Improvements to Section 304(10)**

Verizon believes that if there are to be changes to the fund, the following elements should be included as part of the final legislation:

#### **1) MPSC Authority to Analyze Individual Company Impacts of the FCC Order to Avoid Over- or Duplicative Recovery.**

In its November 2011 order revamping the system of intercarrier compensation payments between carriers (including intrastate access charges), the FCC recognized that state commissions would have to monitor implementation of the FCC's new recovery mechanism to protect against over-recovery.

At Paragraph 880 of its order, the FCC states:

Carriers will be required to submit to the states data regarding all FY2011 switched access MOU and rates, broken down into categories and subcategories corresponding to the relevant categories of rates being reduced. With this information, states with authority over intrastate access charges will be able to monitor implementation of the recovery mechanism and compliance with our rules, and help guard against cost-shifting or double dipping by carriers. (emphasis added)

This analysis will not require any additional work by the providers since they are already required to submit this information to the FCC and the states. Adding language to Section 304(10) to direct the MPSC to perform the necessary analysis to determine what an eligible provider is receiving from both the State ARM and federal access recovery mechanisms will make sure that the Fund is properly sized, that contributions into the fund meet the purpose of the ARM, and that no double recovery is occurring. If Eligible Providers are sure there is no issue, they should not object to this.

#### **2) MPSC Authority to Adjust the ARM Fund for any Over- or Duplicative Recovery**

In addition, if the MPSC determines, after conducting its analysis, that some carriers are drawing excessive or duplicative disbursements from state and federal access recovery mechanisms, it should have the authority to eliminate such over-recovery and/or duplicative payment by adjusting the size of the ARM downward. Without this authority, the MPSC may discover a need to adjust the Fund but not be able to do so until 2014 under the current statute, or March 2018 under the proposed legislation.